

114TH CONGRESS  
2D SESSION

# H. R. 875

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2016

Received

---

## AN ACT

To provide for alternative financing arrangements for the provision of certain services and the construction and maintenance of infrastructure at land border ports of entry, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cross-Border Trade  
3 Enhancement Act of 2016”.

4 **SEC. 2. PUBLIC-PRIVATE PARTNERSHIPS.**

5 (a) IN GENERAL.—Title IV of the Homeland Secu-  
6 rity Act of 2002 (6 U.S.C. 202 et seq.) is amended by  
7 adding at the end the following:

8 **“Subtitle G—U.S. Customs and Bor-  
9 der Protection Public Private  
10 Partnerships**

11 **“SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT  
12 PORTS OF ENTRY.**

13 “(a) IN GENERAL.—Notwithstanding section  
14 13031(e) of the Consolidated Omnibus Budget Reconcili-  
15 ation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of  
16 the Tariff Act of 1930 (19 U.S.C. 1451), the Commis-  
17 sioner of U.S. Customs and Border Protection, upon the  
18 request of any entity, may enter into a fee agreement with  
19 such entity under which—

20 “(1) U.S. Customs and Border Protection shall  
21 provide services described in subsection (b) at a  
22 United States port of entry or any other facility at  
23 which U.S. Customs and Border Protection provides  
24 or will provide such services;

25 “(2) such entity shall remit to U.S. Customs  
26 and Border Protection a fee imposed under sub-

1       section (h) in an amount equal to the full costs that  
2       are incurred or will be incurred in providing such  
3       services; and

4           “(3) if space is provided by such entity, each  
5       facility at which U.S. Customs and Border Protec-  
6       tion services are performed shall be maintained and  
7       equipped by such entity, without cost to the Federal  
8       Government, in accordance with U.S. Customs and  
9       Border Protection specifications.

10          “(b) SERVICES DESCRIBED.—The services described  
11       in this subsection are any activities of any employee or  
12       Office of Field Operations contractor of U.S. Customs and  
13       Border Protection (except employees of the U.S. Border  
14       Patrol, as established under section 411(e)) pertaining to,  
15       or in support of, customs, agricultural processing, border  
16       security, or immigration inspection-related matters at a  
17       port of entry or any other facility at which U.S. Customs  
18       and Border Protection provides or will provide services.

19          “(c) MODIFICATION OF PRIOR AGREEMENTS.—The  
20       Commissioner of U.S. Customs and Border Protection, at  
21       the request of an entity who has previously entered into  
22       an agreement with U.S. Customs and Border Protection  
23       for the reimbursement of fees in effect on the date of en-  
24       actment of this section, may modify such agreement to  
25       implement any provisions of this section.

1       “(d) LIMITATIONS.—

2           “(1) IMPACTS OF SERVICES.—The Commis-  
3 sioner of U.S. Customs and Border Protection—

4              “(A) may enter into fee agreements under  
5 this section only for services that—

6                  “(i) will increase or enhance the oper-  
7 ational capacity of U.S. Customs and Bor-  
8 der Protection based on available staffing  
9 and workload; and

10               “(ii) will not shift the cost of services  
11 funded in any appropriations Act, or pro-  
12 vided from any account in the Treasury of  
13 the United States derived by the collection  
14 of fees, to entities under this Act; and

15              “(B) may not enter into a fee agreement  
16 under this section if such agreement would un-  
17 duly and permanently impact services funded in  
18 any appropriations Act, or provided from any  
19 account in the Treasury of the United States,  
20 derived by the collection of fees.

21           “(2) NUMBER.—There shall be no limit to the  
22 number of fee agreements that the Commissioner of  
23 U.S. Customs and Border Protection may enter into  
24 under this section.

25       “(e) AIR PORTS OF ENTRY.—

1           “(1) FEE AGREEMENT.—Except as otherwise  
2 provided in this subsection, a fee agreement for U.S.  
3 Customs and Border Protection services at an air  
4 port of entry may only provide for the payment of  
5 overtime costs of U.S. Customs and Border Protec-  
6 tion officers and salaries and expenses of U.S. Cus-  
7 toms and Border Protection employees to support  
8 U.S. Customs and Border Protection officers in per-  
9 forming services described in subsection (b).

10          “(2) SMALL AIRPORTS.—Notwithstanding para-  
11 graph (1), U.S. Customs and Border Protection may  
12 receive reimbursement in addition to overtime costs  
13 if the fee agreement is for services at an air port of  
14 entry that has fewer than 100,000 arriving inter-  
15 national passengers annually.

16          “(3) COVERED SERVICES.—In addition to costs  
17 described in paragraph (1), a fee agreement for U.S.  
18 Customs and Border Protection services at an air  
19 port of entry referred to in paragraph (2) may pro-  
20 vide for the reimbursement of—

21           “(A) salaries and expenses of not more  
22 than five full-time equivalent U.S. Customs and  
23 Border Protection Officers beyond the number  
24 of such officers assigned to the port of entry on

1           the date on which the fee agreement was  
2           signed;

3           “(B) salaries and expenses of employees of  
4           U.S. Customs and Border Protection, other  
5           than the officers referred to in subparagraph  
6           (A), to support U.S. Customs and Border Pro-  
7           tection officers in performing law enforcement  
8           functions; and

9           “(C) other costs incurred by U.S. Customs  
10          and Border Protection relating to services de-  
11          scribed in subparagraph (B), such as temporary  
12          placement or permanent relocation of employ-  
13          ees, including incentive pay for relocation, as  
14          appropriate.

15          “(f) PORT OF ENTRY SIZE.—The Commissioner of  
16          U.S. Customs and Border Protection shall ensure that  
17          each fee agreement proposal is given equal consideration  
18          regardless of the size of the port of entry.

19          “(g) DENIED APPLICATION.—

20           “(1) IN GENERAL.—If the Commissioner of  
21          U.S. Customs and Border Protection denies a pro-  
22          posal for a fee agreement under this section, the  
23          Commissioner shall provide the entity submitting  
24          such proposal with the reason for the denial un-  
25          less—

1                 “(A) the reason for the denial is law en-  
2                 forcement sensitive; or

3                 “(B) withholding the reason for the denial  
4                 is in the national security interests of the  
5                 United States.

6                 “(2) JUDICIAL REVIEW.—Decisions of the Com-  
7                 missioner of U.S. Customs and Border Protection  
8                 under paragraph (1) are in the discretion of the  
9                 Commissioner and are not subject to judicial review.

10                “(h) FEE.—

11                “(1) IN GENERAL.—The amount of the fee to  
12                 be charged under an agreement authorized under  
13                 subsection (a) shall be paid by each entity request-  
14                 ing U.S. Customs and Border Protection services,  
15                 and shall be for the full cost of providing such serv-  
16                 ices, including the salaries and expenses of employ-  
17                 ees and contractors of U.S. Customs and Border  
18                 Protection, to provide such services and other costs  
19                 incurred by U.S. Customs and Border Protection re-  
20                 lating to such services, such as temporary placement  
21                 or permanent relocation of such employees and con-  
22                 tractors.

23                “(2) TIMING.—The Commissioner of U.S. Cus-  
24                 toms and Border Protection may require that the fee  
25                 referred to in paragraph (1) be paid by each entity

1       that has entered into a fee agreement under sub-  
2       section (a) with U.S. Customs and Border Protec-  
3       tion in advance of the performance of U.S. Customs  
4       and Border Protection services.

5           “(3) OVERSIGHT OF FEES.—The Commissioner  
6       of U.S. Customs and Border Protection shall develop  
7       a process to oversee the services for which fees are  
8       charged pursuant to an agreement under subsection  
9       (a), including—

10           “(A) a determination and report on the  
11       full costs of providing such services, and a proc-  
12       ess for increasing such fees, as necessary;

13           “(B) the establishment of a periodic remit-  
14       tance schedule to replenish appropriations, ac-  
15       counts, or funds, as necessary; and

16           “(C) the identification of costs paid by  
17       such fees.

18           “(i) DEPOSIT OF FUNDS.—

19           “(1) ACCOUNT.—Funds collected pursuant to  
20       any agreement entered into pursuant to subsection  
21       (a)—

22           “(A) shall be deposited as offsetting collec-  
23       tions;

24           “(B) shall remain available until expended  
25       without fiscal year limitation; and

1               “(C) shall be credited to the applicable ap-  
2               propriation, account, or fund for the amount  
3               paid out of such appropriation, account, or fund  
4               for any expenses incurred or to be incurred by  
5               U.S. Customs and Border Protection in pro-  
6               viding U.S. Customs and Border Protection  
7               services under any such agreement and any  
8               other costs incurred or to be incurred by U.S.  
9               Customs and Border Protection relating to such  
10               services.

11               “(2) RETURN OF UNUSED FUNDS.—The Com-  
12               missioner of U.S. Customs and Border Protection  
13               shall return any unused funds collected and depos-  
14               ited into the account described in paragraph (1) if  
15               a fee agreement entered into pursuant to subsection  
16               (a) is terminated for any reason or the terms of  
17               such fee agreement change by mutual agreement to  
18               cause a reduction of U.S. Customs and Border Pro-  
19               tections services. No interest shall be owed upon the  
20               return of any such unused funds.

21               “(j) TERMINATION.—

22               “(1) IN GENERAL.—The Commissioner of U.S.  
23               Customs and Border Protection shall terminate the  
24               services provided pursuant to a fee agreement en-  
25               tered into under subsection (a) with an entity that,

1 after receiving notice from the Commissioner that a  
2 fee under subsection (h) is due, fails to pay such fee  
3 in a timely manner. If such services are terminated,  
4 all costs incurred by U.S. Customs and Border Pro-  
5 tection that have not been paid shall become imme-  
6 diately due and payable. Interest on unpaid fees  
7 shall accrue based on the rate and amount estab-  
8 lished under sections 6621 and 6622 of the Internal  
9 Revenue Code of 1986.

10 “(2) PENALTY.—Any entity that, after notice  
11 and demand for payment of any fee under sub-  
12 section (h), fails to pay such fee in a timely manner  
13 shall be liable for a penalty or liquidated damage  
14 equal to two times the amount of such fee. Any such  
15 amount collected under this paragraph shall be de-  
16 posited into the appropriate account specified under  
17 subsection (i) and shall be available as described in  
18 such subsection.

19 “(3) TERMINATION BY THE ENTITY.—Any enti-  
20 ty who has previously entered into an agreement  
21 with U.S. Customs and Border Protection for the re-  
22 imbursement of fees in effect on the date of enact-  
23 ment of this section, or under the provisions of this  
24 section, may request that such agreement be amend-  
25 ed to provide for termination upon advance notice,

1 length, and terms that are negotiated between such  
2 entity and U.S. Customs and Border Protection.

3 “(k) ANNUAL REPORT.—The Commissioner of U.S.  
4 Customs and Border Protection shall—

5       “(1) submit an annual report identifying the  
6 activities undertaken and the agreements entered  
7 into pursuant to this section to—

8           “(A) the Committee on Appropriations of  
9 the Senate;

10          “(B) the Committee on Finance of the  
11 Senate;

12          “(C) the Committee on Homeland Security  
13 and Governmental Affairs of the Senate;

14          “(D) the Committee on the Judiciary of  
15 the Senate;

16          “(E) the Committee on Appropriations of  
17 the House of Representatives;

18          “(F) the Committee on Homeland Security  
19 of the House of Representatives;

20          “(G) the Committee on the Judiciary of  
21 the House of Representatives; and

22          “(H) the Committee on Ways and Means  
23 of the House of Representatives; and

24          “(2) not later than 15 days before entering into  
25 a fee agreement, notify the members of Congress

1       that represent the State or Congressional District in  
2       which the affected port of entry or facility is located  
3       of such agreement.

4       “(l) RULE OF CONSTRUCTION.—Nothing in this sec-  
5       tion may be construed as imposing on U.S. Customs and  
6       Border Protection any responsibilities, duties, or authori-  
7       ties relating to real property.

8       **“SEC. 482. PORT OF ENTRY DONATION AUTHORITY.**

9       “(a) PERSONAL PROPERTY DONATION AUTHOR-  
10      ITY.—

11       “(1) IN GENERAL.—The Commissioner of U.S.  
12       Customs and Border Protection, in consultation with  
13       the Administrator of General Services, may enter  
14       into an agreement with any entity to accept a dona-  
15       tion of personal property, money, or nonpersonal  
16       services for the uses described in paragraph (3) only  
17       with respect to the following locations at which U.S.  
18       Customs and Border Protection performs or will be  
19       performing inspection services:

20           “(A) A new or existing sea or air port of  
21           entry.

22           “(B) An existing Federal Government-  
23           owned land port of entry.

24           “(C) A new Federal Government-owned  
25           land port of entry if—

1                     “(i) the fair market value of the dona-  
2                     tion is \$50,000,000 or less; and

3                     “(ii) the fair market value, including  
4                     any personal and real property donations  
5                     in total, of such port of entry when com-  
6                     pleted, is \$50,000,000 or less.

7                 “(2) LIMITATION ON MONETARY DONATIONS.—

8                 Any monetary donation accepted pursuant to this  
9                 subsection may not be used to pay the salaries of  
10                U.S. Customs and Border Protection employees per-  
11                forming inspection services.

12                “(3) USES.—Donations accepted pursuant to  
13                this subsection may be used for activities of the Of-  
14                fice of Field Operations set forth in subparagraphs  
15                (A) through (F) of section 411(g)(3), which are re-  
16                lated to a new or existing sea or air port of entry  
17                or a new or existing Federal Government-owned land  
18                port of entry described in paragraph (1), including  
19                expenses related to—

20                     “(A) furniture, fixtures, equipment, or  
21                     technology, including the installation or deploy-  
22                     ment of such items; and

23                     “(B) the operation and maintenance of  
24                     such furniture, fixtures, equipment, or tech-  
25                     nology.

## 1       “(b) REAL PROPERTY DONATION AUTHORITY.—

2               “(1) IN GENERAL.—Subject to paragraph (3),  
3               the Commissioner of U.S. Customs and Border Pro-  
4               tection, and the Administrator of the General Serv-  
5               ices Administration, as applicable, may enter into an  
6               agreement with any entity to accept a donation of  
7               real property or money for uses described in para-  
8               graph (2) only with respect to the following locations  
9               at which U.S. Customs and Border Protection per-  
10              forms or will be performing inspection services:

11               “(A) A new or existing sea or air port of  
12              entry.

13               “(B) An existing Federal Government-  
14              owned land port of entry.

15               “(C) A new Federal Government-owned  
16              land port of entry if—

17               “(i) the fair market value of the dona-  
18              tion is \$50,000,000 or less; and

19               “(ii) the fair market value, including  
20              any personal and real property donations  
21              in total, of such port of entry when com-  
22              pleted, is \$50,000,000 or less.

23               “(2) USE.—Donations accepted pursuant to  
24              this subsection may be used for activities of the Of-  
25              fice of Field Operations set forth in section 411(g),

1 which are related to the construction, alteration, op-  
2 eration, or maintenance of a new or existing sea or  
3 air port of entry or a new or existing a Federal Gov-  
4 ernment-owned land port of entry described in para-  
5 graph (1), including expenses related to—

6                 “(A) land acquisition, design, construction,  
7 repair, or alteration; and

8                 “(B) operation and maintenance of such  
9 port of entry facility.

10                 “(3) LIMITATION ON REAL PROPERTY DONA-  
11 TIONS.—A donation of real property under this sub-  
12 section at an existing land port of entry owned by  
13 the General Services Administration may only be ac-  
14 cepted by the Administrator of General Services.

15                 “(4) SUNSET.—

16                 “(A) IN GENERAL.—The authority to enter  
17 into an agreement under this subsection shall  
18 terminate on the date that is 4 years after the  
19 date of the enactment of this section.

20                 “(B) RULE OF CONSTRUCTION.—The ter-  
21 mination date referred to in subparagraph (A)  
22 shall not apply to carrying out the terms of an  
23 agreement under this subsection if such agree-  
24 ment is entered into before such termination  
25 date.

## 1       “(c) GENERAL PROVISIONS.—

2               “(1) DURATION.—An agreement entered into  
3               under subsection (a) or (b) (and, in the case of such  
4               subsection (b), in accordance with paragraph (4) of  
5               such subsection) may last as long as required to  
6               meet the terms of such agreement.

7               “(2) CRITERIA.—In carrying out an agreement  
8               entered into under subsection (a) or (b), the Com-  
9               missioner of U.S. Customs and Border Protection,  
10               in consultation with the Administrator of General  
11               Services, shall establish criteria regarding—

12               “(A) the selection and evaluation of do-  
13               nors;

14               “(B) the identification of roles and respon-  
15               sibilities between U.S. Customs and Border  
16               Protection, the General Services Administra-  
17               tion, and donors;

18               “(C) the identification, allocation, and  
19               management of explicit and implicit risks of  
20               partnering between the Federal Government  
21               and donors;

22               “(D) decision-making and dispute resolu-  
23               tion processes; and

24               “(E) processes for U.S. Customs and Bor-  
25               der Protection, and the General Services Ad-

1 ministration, as applicable, to terminate agree-  
2 ments if selected donors are not meeting the  
3 terms of any such agreement, including the se-  
4 curity standards established by U.S. Customs  
5 and Border Protection.

6 “(3) EVALUATION PROCEDURES.—

7 “(A) IN GENERAL.—The Commissioner of  
8 U.S. Customs and Border Protection, in con-  
9 sultation with the Administrator of General  
10 Services, as applicable, shall—

11 “(i) establish criteria for evaluating a  
12 proposal to enter into an agreement under  
13 subsection (a) or (b); and

14 “(ii) make such criteria publicly avail-  
15 able.

16 “(B) CONSIDERATIONS.—Criteria estab-  
17 lished pursuant to subparagraph (A) shall con-  
18 sider—

19 “(i) the impact of a proposal referred  
20 to in such subparagraph on the land, sea,  
21 or air port of entry at issue and other  
22 ports of entry or similar facilities or other  
23 infrastructure near the location of the pro-  
24 posed donation;

1                 “(ii) such proposal’s potential to in-  
2                 crease trade and travel efficiency through  
3                 added capacity;

4                 “(iii) such proposal’s potential to en-  
5                 hance the security of the port of entry at  
6                 issue;

7                 “(iv) the impact of the proposal on re-  
8                 ducing wait times at that port of entry or  
9                 facility and other ports of entry on the  
10                 same border;

11                 “(v) for a donation under subsection  
12                 (b)—

13                 “(I) whether such donation satis-  
14                 fies the requirements of such pro-  
15                 posal, or whether additional real prop-  
16                 erty would be required; and

17                 “(II) how such donation was ac-  
18                 quired, including if eminent domain  
19                 was used;

20                 “(vi) the funding available to complete  
21                 the intended use of such donation;

22                 “(vii) the costs of maintaining and op-  
23                 erating such donation;

1                 “(viii) the impact of such proposal on  
2                 U.S. Customs and Border Protection staff-  
3                 ing requirements; and

4                 “(ix) other factors that the Commis-  
5                 sioner or Administrator determines to be  
6                 relevant.

7                 “(C) DETERMINATION AND NOTIFICA-  
8                 TION.—

9                 “(i) INCOMPLETE PROPOSALS.—

10                 “(I) IN GENERAL.—Not later  
11                 than 60 days after receiving the pro-  
12                 posals for a donation agreement from  
13                 an entity, the Commissioner of U.S.  
14                 Customs and Border Protection shall  
15                 notify such entity as to whether such  
16                 proposal is complete or incomplete.

17                 “(II) RESUBMISSION.—If the  
18                 Commissioner of U.S. Customs and  
19                 Border Protection determines that a  
20                 proposal is incomplete, the Commis-  
21                 sioner shall—

22                 “(aa) notify the appropriate  
23                 entity and provide such entity  
24                 with a description of all informa-  
25                 tion or material that is needed to

1                   complete review of the proposal;

2                   and

3                   “(bb) allow the entity to re-  
4                   submit the proposal with addi-  
5                   tional information and material  
6                   described in item (aa) to com-  
7                   plete the proposal.

8                   “(ii) COMPLETE PROPOSALS.—Not  
9                   later than 180 days after receiving a com-  
10                  pleted proposal to enter into an agreement  
11                  under subsection (a) or (b), the Commis-  
12                  sioner of U.S. Customs and Border Protec-  
13                  tion, with the concurrence of the Adminis-  
14                  trator of General Services, as applicable,  
15                  shall—

16                  “(I) determine whether to ap-  
17                  prove or deny such proposal; and

18                  “(II) notify the entity that sub-  
19                  mitted such proposal of such deter-  
20                  mination.

21                  “(4) SUPPLEMENTAL FUNDING.—Except as re-  
22                  quired under section 3307 of title 40, United States  
23                  Code, real property donations to the Administrator  
24                  of General Services made pursuant to subsection (a)  
25                  and (b) at a GSA-owned land port of entry may be

1       used in addition to any other funding for such pur-  
2       pose, including appropriated funds, property, or  
3       services.

4           “(5) RETURN OF DONATIONS.—The Commis-  
5       sioner of U.S. Customs and Border Protection, or  
6       the Administrator of General Services, as applicable,  
7       may return any donation made pursuant to sub-  
8       section (a) or (b). No interest shall be owed to the  
9       donor with respect to any donation provided under  
10      such subsections that is returned pursuant to this  
11      subsection.

12           “(6) PROHIBITION ON CERTAIN FUNDING.—

13           “(A) IN GENERAL.—Except as provided in  
14       subsections (a) and (b) regarding the accept-  
15       ance of donations, the Commissioner of U.S.  
16       Customs and Border Protection and the Admin-  
17       istrator of General Services, as applicable, may  
18       not, with respect to an agreement entered into  
19       under either of such subsections, obligate or ex-  
20       pend amounts in excess of amounts that have  
21       been appropriated pursuant to any appropria-  
22       tions Act for purposes specified in either of  
23       such subsections or otherwise made available  
24       for any of such purposes.

1                 “(B) CERTIFICATION REQUIREMENT.—Be-  
2                 fore accepting any donations pursuant to an  
3                 agreement under subsection (a) or (b), the  
4                 Commissioner of U.S. Customs and Border  
5                 Protection shall certify to the congressional  
6                 committees set forth in paragraph (7) that the  
7                 donation will not be used for the construction  
8                 of a detention facility or a border fence or wall.

9                 “(7) ANNUAL REPORTS.—The Commissioner of  
10                U.S. Customs and Border Protection, in collabora-  
11                tion with the Administrator of General Services, as  
12                applicable, shall submit an annual report identifying  
13                the activities undertaken and agreements entered  
14                into pursuant to subsections (a) and (b) to—

15                 “(A) the Committee on Appropriations of  
16                the Senate;

17                 “(B) the Committee on Environment and  
18                Public Works of the Senate;

19                 “(C) the Committee on Finance of the  
20                Senate;

21                 “(D) the Committee on Homeland Security  
22                and Governmental Affairs of the Senate;

23                 “(E) the Committee on the Judiciary of  
24                the Senate;

1               “(F) the Committee on Appropriations of  
2               the House of Representatives;

3               “(G) the Committee on Homeland Security  
4               of the House of Representatives;

5               “(H) the Committee on the Judiciary of  
6               the House of Representatives;

7               “(I) the Committee on Transportation and  
8               Infrastructure of the House of Representatives;  
9               and

10             “(J) the Committee on Ways and Means of  
11              the House of Representatives.

12             “(d) GAO REPORT.—The Comptroller General of the  
13             United States shall submit an annual report to the con-  
14             gressional committees referred to in subsection (c)(7) that  
15             evaluates—

16              “(1) fee agreements entered into pursuant to  
17             section 481;

18              “(2) donation agreements entered into pursuant  
19             to subsections (a) and (b); and

20              “(3) the fees and donations received by U.S.  
21             Customs and Border Protection pursuant to such  
22             agreements.

23             “(e) JUDICIAL REVIEW.—Decisions of the Commis-  
24             sioner of U.S. Customs and Border Protection and the Ad-  
25             ministrator of the General Services Administration under

1 this section regarding the acceptance of real or personal  
2 property are in the discretion of the Commissioner and  
3 the Administrator and are not subject to judicial review.

4       “(f) RULE OF CONSTRUCTION.—Except as otherwise  
5 provided in this section, nothing in this section may be  
6 construed as affecting in any manner the responsibilities,  
7 duties, or authorities of U.S. Customs and Border Protec-  
8 tion or the General Services Administration.

9 **“SEC. 483. CURRENT AND PROPOSED AGREEMENTS.**

10       “Nothing in this subtitle or in section 4 of the Cross-  
11 Border Trade Enhancement Act of 2016 may be con-  
12 strued as affecting—

13           “(1) any agreement entered into pursuant to  
14 section 560 of division D of the Consolidated and  
15 Further Continuing Appropriations Act, 2013 (Pub-  
16 lic Law 113–6) or section 559 of title V of division  
17 F of the Consolidated Appropriations Act, 2014 (6  
18 U.S.C. 211 note; Public Law 113–76), as in exist-  
19 ence on the day before the date of the enactment of  
20 this subtitle, and any such agreement shall continue  
21 to have full force and effect on and after such date;  
22 or

23           “(2) a proposal accepted for consideration by  
24 U.S. Customs and Border Protection pursuant to

1       such section 559, as in existence on the day before  
2       such date of enactment.

3       **“SEC. 484. DEFINITIONS.**

4       “In this subtitle:

5           “(1) DONOR.—The term ‘donor’ means any en-  
6       tity that is proposing to make a donation under this  
7       Act.

8           “(2) ENTITY.—The term ‘entity’ means any—  
9              “(A) person;

10             “(B) partnership, corporation, trust, es-  
11       tate, cooperative, association, or any other orga-  
12       nized group of persons;

13             “(C) Federal, State or local government  
14       (including any subdivision, agency or instru-  
15       mentality thereof); or

16             “(D) any other private or governmental en-  
17       tity.”.

18       (b) CLERICAL AMENDMENT.—The table of contents  
19       in section 1(b) of the Homeland Security Act of 2002 is  
20       amended by adding at the end of the list of items relating  
21       to title IV the following:

“Subtitle G—U.S. Customs and Border Protection Public Private  
Partnerships

“Sec. 481. Fee agreements for certain services at ports of entry.

“Sec. 482. Port of entry donation authority.

“See. 483. Current and proposed agreements.

“See. 484. Definitions.”.

1   **SEC. 3. MODIFICATION OF EXISTING REPORTS TO CON-**

2                   **GRESS.**

3       Section 907(b) of the Trade Facilitation and Trade  
4   Enforcement Act of 2015 (Public Law 114–125) is  
5   amended—

6                   (1) in paragraph (3), by striking “or” at the  
7   end;

8                   (2) in paragraph (4), by striking the period at  
9   the end and inserting “; or”; and

10                  (3) by adding at the end the following:

11                  “(5) the program for entering into reimbursable  
12   fee agreements with U.S. Customs and Border Pro-  
13   tection established under section 481 of the Home-  
14   land Security Act of 2002.”.

15   **SEC. 4. REPEALS.**

16                  (a) CONTRACT AUTHORITY.—Section 560 of division  
17   D of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113–6) is repealed.

19                  (b) PARTNERSHIP PILOT PROGRAM.—Section 559 of  
20   division F of the Consolidated Appropriations Act, 2014  
21   (6 U.S.C. 211 note; Public Law 113–76) is repealed.

22   **SEC. 5. WAIVER OF POLYGRAPH EXAMINATION REQUIRE-  
23                   MENT FOR CERTAIN LAW ENFORCEMENT AP-  
24                   PLICANTS.**

25       Section 3 of the Anti-Border Corruption Act of 2010  
26   (Public Law 111–376; 6 U.S.C. 221) is amended—

1                             (1) in the matter preceding paragraph (1), by  
2                             striking “The Secretary” and inserting the fol-  
3                             lowing:

4                             “(a) IN GENERAL.—The Secretary”;

5                             (2) in subsection (a)(1), as redesignated, by in-  
6                             serting “(except as provided in subsection (b))” after  
7                             “Border Protection”; and

8                             (3) by adding at the end the following:

9                             “(b) WAIVER.—The Commissioner of U.S. Customs  
10                             and Border Protection may waive the polygraph examina-  
11                             tion requirement under subsection (a)(1) for any applicant  
12                             who—

13                             “(1) is deemed suitable for employment;

14                             “(2) holds a current, active Top Secret/Sen-  
15                             sitive Compartmented Information Clearance;

16                             “(3) has a current Single Scope Background  
17                             Investigation;

18                             “(4) was not granted any waivers to obtain his  
19                             or her clearance; and

1           “(5) is a veteran (as defined in section 2108 of  
2       title 5, United States Code).”.

Passed the House of Representatives December 6,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*